

BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

JAN MAREK JAKUBOWSKI  
P.O. Box 6791  
Los Osos, CA 93412

Vocational Nurse License No.  
VN 134521

Respondent


Case No. VN-2005-109

DECISION DENYING  
PETITION  
FOR RECONSIDERATION

The Board of Vocational Nursing and Psychiatric Technicians hereby denies your Petition for  
Reconsideration of its March 29, 2009 Decision in the above-entitled matter.

This Decision shall become effective on April 8, 2009.

IT IS SO ORDERED this 6<sup>th</sup> day of April, 2009.

  
John P. Vertido, L.V.N.  
President

BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

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JAN MAREK JAKUBOWSKI  
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Vocational Nurse License No.  
VN 134521

Respondent.

**ORDER DELAYING DECISION**

Pursuant to Section 11521(a) of the Government Code, the Board of Vocational  
Nursing and Psychiatric Technicians (Board) hereby issues this Order Delaying Decision in the  
above-stated case until April 8, 2009. The purpose of the delay is to permit the Board to review your  
Petition for Reconsideration.

IT IS SO ORDERED this 26<sup>th</sup> day of March, 2009.

  
John P. Verdido, L.V.N.  
President

BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Filed Against:

Case No.: VN-2005-109

**JAN MAREK JAKUBOWSKI**  
P.O. Box 13334  
San Luis Obispo, CA 93406

**DEFAULT DECISION  
AND ORDER**

Vocational Nurse License No. VN 134521

Respondent.

Jan Marek Jakubowski ("Respondent") was served Accusation No. VN-2005-109; Statement to Respondent; Notice of Defense form; copies of Government Code sections 11507.5, 11507.6 and 11507.7; and Request for Discovery by both first class and certified mail on December 22, 2008 at his address of record as provided in sections 11503 and 11505 of the Government Code of the State of California.

Respondent failed to file a Notice of Defense within the time specified in Government Code section 11506.

The Board of Vocational Nursing and Psychiatric Technicians ("Board") has determined that Respondent has waived his rights to a hearing to contest the merits of the Accusation and that the Board will take action on the Accusation without a hearing, pursuant to Government Code section 11520.

The Board makes the following findings of fact:

**FINDINGS OF FACT**

1. Teresa Bello-Jones, J.D., M.S.N., R.N., made and filed the Accusation solely in her capacity as the Board's Executive Officer.

2. On December 9, 1986, the Board issued Vocational Nurse License Number VN 134521 to Respondent. Said license is renewed and valid until July 31, 2010.

3. Pursuant to Business and Professions Code section 2875, the Board may discipline any licensed vocational nurse for any reason provided in Article 3 of the Vocational Nursing Practice Act.

4. Pursuant to Business and Professions Code section 118(b), the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated. Under Business and Professions Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

5. Respondent has subjected his license to discipline under Business and Professions Code sections 490 and 2878(f), in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a licensed vocational nurse, as described in Accusation No. VN-2005-109, a copy of which is attached as Exhibit "1" and incorporated by reference.

6. Respondent has subjected his license to discipline under Business and Professions Code sections 2878(k), in that Respondent committed an act punishable as a sexually related crime which is substantially related to the duties and functions of a licensed vocational nurse, as described in Accusation No. VN-2005-109.

7. Respondent has subjected his license to discipline under Business and Professions Code section 2878(a), in conjunction with California Code of Regulations, title 16, section 2518.6(b)(3), in that Respondent failed to adhere to professional boundaries by failing maintain professional boundaries, as described in Accusation NO. VN-2005-109.

8. Respondent has subjected his license to discipline under Business and Professions Code sections 2878(b), in that Respondent procured a license or certificate by fraud or misrepresentation, as described in Accusation No. VN-2005-109.

9. Respondent has subjected his license to discipline under Business and Professions Code sections 2878(e), in that Respondent made or gave a false statement or information in connection with the application for issuance of a license, in failing to disclose his October 21, 2005 conviction, as described in Accusation No. VN-2005-109.

#### **DETERMINATION OF ISSUES**

Based on the foregoing Findings of Fact, Respondent has subjected his license to

discipline under Business and Professions Code sections 490, 2878(a), 2878(b), 2878(e), 2878(f), 2878(k) and California Code of Regulations, title 16, section 2518.6(b)(3).

**LOCATION OF RECORD**

The record on which this Default Decision is based is located at the Sacramento office of the Board of Vocational Nursing and Psychiatric Technicians.

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**ORDER**

**WHEREFORE**, the Board of Vocational Nursing and Psychiatric Technicians makes the following order:


Vocational Nurse License Number VN 134521 authorizing Respondent to act as a vocational nurse is hereby revoked.

Respondent shall have the right to petition for reinstatement of the aforesaid license pursuant to the provision of section 2878.7(a)(1) of the Business and Professions Code.

Respondent shall not be deprived of making any further showing by way of mitigation; however, such showing must be made directly to the Board of Vocational Nursing and Psychiatric Technicians, 2535 Capitol Oaks Drive, Suite 205, Sacramento, California, 95833 prior to the effective date of this Decision.

This Default Decision shall become effective on March 29, 2009.

Dated and signed February 27, 2009.

  
John P. Vertido, L.V.N.  
President

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Attachments: Exhibit "1", Accusation No. VN-2005-1283 and Declaration of Service

Exhibit "1"  
Accusation No. VN-2005-109 and Declaration of Service

**FILED**

DEC 22 2008

Board of Vocational Nursing  
and Psychiatric Technicians

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**BEFORE THE  
DEPARTMENT OF CONSUMER AFFAIRS  
BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2005-109

JAN MAREK JAKUBOWSKI,  
aka JOHN JAKUBOWSKI  
P.O. Box 13334  
San Luis Obispo, California 93406

**ACCUSATION**

Vocational Nurse License No. VN 134521

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.
2. On or about December 9, 1986, the Bureau of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 134521 to Jan Marek Jakubowski, also known as John Jakubowski (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2010, unless renewed.



JURISDICTION

3. This Accusation is brought before the Director of Consumer Affairs (Director) for the Bureau of Vocational Nursing and Psychiatric Technicians (Bureau), under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2878 of the Code states:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(b) Procuring a certificate by fraud, misrepresentation, or mistake.

....

"(c) Making or giving any false statement or information in connection with the application for issuance of a license.

"(d) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

....

"(e) The commission of any act punishable as a sexually related crime, if that act is substantially related to the duties and functions of the licensee."

5. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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6. California Code of Regulations, title 16, section 2518.6, subdivision (b), states:

"A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

....

(3) Maintaining professional boundaries with the patient/client"

7. Section 125.3 of the Code provides, in pertinent part, that the Director may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

8. Respondent is subject to disciplinary action pursuant to Code sections 490 and 2878, subdivision (f), in that Respondent was convicted of a crime substantially related to the qualifications, functions and duties of a licensed vocational nurse. On or about October 21, 2005, in the case entitled *The People of the State of California v. Jan Marek Jakubowski*, in the Sup. Ct. of California, County of Santa Barbara, Case No. 1191714, on his plea of nolo contendere, Respondent was convicted of one count of violating Penal Code section 415 (disturbance, malicious conduct), a misdemeanor. The circumstances surrounding the conviction are as follows:

a. In or between May 3, 2005 and May 5, 2005, while employed as a Temporary Term Licensed Vocational Nurse at Lompac Hospital, Respondent provided patient care to patient V.G.<sup>1</sup> On or about May 3, 2005, after administering Patient V.G. a shot in her

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1. The patient name has been omitted for purposes of privacy and will be disclosed upon receipt of a proper request for discovery.

1 buttocks, Respondent rubbed her exposed right buttock with his hands. In addition, with  
2 ungloved hands, Respondent massaged Patient V.G.'s exposed neck and back with prescribed  
3 anti-itch cream, and placed his hands on her stomach and breast area. He told Patient V.G. he  
4 was sorry because he "had crossed the line." Respondent and Patient V.G. shared personal  
5 information, and Respondent complimented Patient V.G. on her appearance, telling her that she  
6 was "really pretty."

7           b.       During the course of his treatment of Patient V.G., Respondent informed  
8 Patient V.G. that he was interested in dating her after her recovery, and gave her his personal  
9 telephone number. Respondent later admitted that he thought that Patient V.G. was attractive  
10 and would have liked to have a dating relationship with her.

11           c.       Patient V.G. filed a complaint with the Lompac Police Department  
12 alleging that she had been sexually assaulted/battered by Respondent during her stay at Lompac  
13 Hospital.

14           d.       During questioning by a Lompac Police Department detective,  
15 Respondent admitted that he had acted "inappropriate" with Patient V.G. by "touching her seat"  
16 (buttocks) and by rubbing lotion on Patient V.G.'s legs, buttocks, back and "seat." Respondent  
17 admitted that he felt the incident "was going somewhere it shouldn't be going," and that he  
18 became sexually aroused while touching the patient.

## 19                               SECOND CAUSE FOR DISCIPLINE

20                               (Sexually Related Crime)

21           9.       Respondent is subject to disciplinary action pursuant to Code section  
22 2878, subdivision (k), in that Respondent committed an act punishable as a sexually related  
23 crime which is substantially related to the duties and functions of a licensed vocational nurse, as  
24 more fully discussed in paragraph 8, above, which is incorporated herein by reference as set  
25 forth in whole. Further, Respondent was sentenced to complete an eight week sexual offender  
26 program while serving two years probation in connection with his conviction in the case entitled  
27 *The People of the State of California v. Jan Marek Jakubowski*, in the Sup. Ct. of California,  
28 County of Santa Barbara, Case No. 1191714.

1 THIRD CAUSE FOR DISCIPLINE

2 (Failure to Maintain Professional Boundaries)

3 10. Respondent is subject to disciplinary action pursuant to Code section  
4 2878, subdivision (a), in conjunction with California Code of Regulations, title 16, section  
5 2518.6, subdivision (b)(3), in that Respondent failed to adhere to professional standards by  
6 failing to maintain professional boundaries with Patient V.G., as more fully discussed in  
7 paragraph 8, above, which is herein incorporated by reference as set forth in whole.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Procuring License by Fraud or Misrepresentation)

10 11. Respondent is subject to disciplinary action pursuant to Code section  
11 2878, subdivision (b), in that Respondent procured a license or certificate by fraud or  
12 misrepresentation. The circumstances are as follows:

13 a. On or about July 24, 2006, the Bureau received an Application for  
14 Renewal of a License (application) from Respondent. On or about July 16, 2006, Respondent  
15 signed under penalty of perjury that all the statements contained in the application were true and  
16 correct. Respondent answered "No" to Question 11 of the application, which asked, "Since you  
17 last renewed your license, have you ever been convicted or pled nolo contendere to any violation  
18 of any law of any state in the United States or a Foreign Country? (You are required to list any  
19 conviction that has been set aside and/or dismissed under Penal Code section 1203.4.)," when, in  
20 fact, on or about October 21, 2005, Respondent was convicted of violating Penal Code section  
21 415, as more fully discussed in paragraph 8, above.

22 FIFTH CAUSE FOR DISCIPLINE

23 (False Statement in Connection with Application for Licensure)

24 12. Respondent is subject to disciplinary action pursuant to Code section  
25 2878, subdivision (e), in that Respondent made or gave a false statement or information in  
26 connection with the application for issuance of a license, in failing to disclose his October 21,  
27 2005 conviction, as more fully discussed in paragraphs 8 and 11, above, which are herein  
28 incorporated by reference as set forth in whole.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

13. Respondent is subject to disciplinary action pursuant to Code section 2878, subdivision (a), in that Respondent committed unprofessional conduct while practicing as a licensed vocational nurse, as more fully discussed in paragraphs 8 through 12, above, which are herein incorporated by reference as set forth in whole.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 134521, issued to Jan Marek Jakubowski, also known as John Jakubowski;
2. Ordering Jan Marek Jakubowski, also known as John Jakubowski, to pay the Bureau of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: December 22, 2008



TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Bureau of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant